

IN THE MATTER OF LEWIS WOLFLEY.

Office of J. B. Woodward,

Rooms 2-4 Porter Bld.

Phoenix, Ariz., Oct. 15, 1896.

GOVERNOR:

Recurring to your inquiry, which I understand to be, Can Congress validate an invalid law without in the act itself specifying such invalid law? En Nomen and not Nomen Collectivum.

It is true that in N. B. vs. County Yankton, 101, U. S. P. 129, the act there was specially named, but the reason for so naming it is most apparent from reading of the case, as owing to the Legislative action it was necessary to segregate this portion of the act from the general act, which in express terms was declared invalid.

If the proposition could be maintained as suggested by you, then the original act of Congress of date June 25, 1890, was invalid, as it, Nomen. Collectivum, in Sec. 15, validates hundreds of thousands of dollars of warrants and other evidences of indebtedness, which were invalid by reason of having been issued in excess of the "Harrison Act."

In this connection your mind is directed to the fact that a debt exists, notwithstanding the Statute of Limitation or other law deprives the creditor of the right to enforce his debt in the Courts; the failure of a remedy does not abrogate an obligation or relieve the moral duty to pay a debt, and in the history of the funding of up-

wards of \$1, 500,000 of the indebtedness of the said act, it is well known that the persons purchasing the bonds were careful to ascertain that the bonds were issued for bona fide obligations, thus by an omnibus act validated, and this is the first time the suggestion has been made that such funding was invalid by reason of said act, not reciting each invalid warrant or act of prior Legislature, or certificate of unauthorized officials, your suggestion if acted upon would result in wholesale repudiation of all that has been heretofore accomplished in the matter of this most beneficial remedial legislation for the people of this Territory.

The language of the act of June 6, 1896, is "And all bonds and other evidences of indebtedness heretofore issued under the authority of the Legislature x x x are hereby confirmed, approved and validated and may be funded as in this act provided x x x"

There is no room for construction here, and if Congress can validate or invalidate one law, it can by a similar exercise of power by the use of the general term "all" validate all the prior existing ~~Laws~~ ^{Laws} of the Territory, as it by act of July 1st, 1862, 12 St. at large 501 C. 126, did by this sweeping language" and all other acts and parts of acts heretofore passed by the said Legislative Assembly of the Territory of Utah, which establish, support, maintain, shield or countenance polygamy, be, and the same are hereby disapproved and annulled," and the like legislation known as the Edmunds-Tucker law was sustained by the Supreme Court of the U. S. in Cope vs. Cope, 137, U. S. P. 682.

In fact, an examination of the U. S. statutes at large will disclose frequent & like exercise of power by Congress that has never been questioned.

Hon. B. J. Franklin,

Governor of Arizona Territory.

Respectfully,

J. B. Woodson